

City of Ellsworth  
Planning Board Workshop Minutes  
**Wednesday, December 1, 2022 5:30 PM**

Chair John DeLeo, Vice-Chair Rick Lyles, Secretary Nelson Geel, Members Marc Rich and Molly Friedland, and Alternate Members Michael Hangge attended the regular meeting of the Ellsworth Planning Board. Alternate Member Patrick Lyons was absent.

Assistant City Planner Matthew Williams, Code Enforcement Officer (“CEO”) Lori Roberts, and Fire & Life Safety Inspector Tom Canavan attended the meeting.

**1.) Call to Order**

Chair DeLeo called the meeting to order at 5:31 PM.

**2.) Adoption of Minutes** from the November 2, 2022 regular meeting. Vice- Chair Rick Lyles moved to approve the minutes as written. Nelson Geel seconded the motion, and with no further discussion, the motion passed unanimously **(5-0)**.

**3.) Revision to an approved Subdivision entitled Rock n’ Stare Ledges Subdivision for Applicant/Owner Janet Bosworth.** The proposal is to amend lot lines conveying 1.96 acres of land from one lot to an abutting lot within the subdivision creating an approximately 5-acre lot at 84 Gator Way (Tax Map 93, Lot 3-2) in the Rural (R), Resource Protection (RP), and General Development (GD) Zoning districts.

Janet Bosworth was in attendance.

Janet Bosworth explained the history of the situation.

Chair DeLeo inquired as to whether there are any structures/buildings on the land that has been transferred. Janet Bosworth confirmed that there are no buildings, this is just a lot line change to give her more space surrounding her home.

Chair DeLeo opened up for Board questions. There were none.

Chair DeLeo asked if Staff has any issues with the proposal. There were none

**Chair DeLeo opened up the public hearing at 5:35. There were none in attendance who wanted to speak. DeLeo asked Nate Burckhard if there was anyone on Zoom who would like to comment, there were none.**

**DeLeo closed public hearing at 5:36.**

**Vice-Chair Lyles moved to accept the revision to a previously approved subdivision entitled Rock n’ Stare Ledges Subdivision for Applicant/Owner Janet Bosworth. Nelson Geel seconded the motion.**

**The board voted unanimously to accept the revision to the subdivision (5-0).**

**Six board members present**

**Three staff members present**

**Call to Order**

**Adoption of minutes**

**Revision to an approved subdivision entitled Rock n’ Stare Ledges Subdivision**

**Introduction**

**Public Hearing**

**Public Hearing Closed**

**Revision to an approved subdivision entitled Rock n’ Stare Ledges Subdivision is APPROVED**

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**4.) Final Plan for a Major Use Site Development entitled Boggy Brook Substation Expansion for Applicant/Owner Versant Power. The proposal is to expand the substation yard. The property is a 51.73-acre lot located at 17 Industrial Road (Tax Map 59, Lot 14) in the Urban (U) Zoning District.**

Sean Hale from VHB and Jeff Fenn, a contractor for Versant Power, were in attendance.

Hale gave an overview of the project. Said that there were additions to the plan since the last meeting per the board's request. Submitted a sound study that was requested at the last meeting. DEP is starting their formal review of the project. All permits for the project have been submitted.

Mr. Geel inquired as to an issue with notice requirements to abutters from last meeting. Assistant City Planner Matthew Williams confirmed that those issues have been resolved.

Vice Chair Lyles inquired as to whether the sound study was sent to the State as well. Hale confirmed that it was but they have not received comment on it as of yet. Lyles asked when they should expect comment from the state, Hale was not sure since there is no timeline that the State must follow.

Lyles asked if there was a way that they could approve the plan with a condition that it is pending the approval of the sound study by the State. Assistant City Planner Williams replied that Versant is unable to move forward without DEP's approval so the conditional acceptance would be superfluous.

Geel recommended that they approve the plan with the condition that approval would be subject to DEP approval. DeLeo says that typically approvals of this kind do come with a contingency that it is subject to DEP approval.

Hale confirmed that once the permits/approvals come from the State, they will send copies to the Planning Board.

DeLeo asked if Staff has anything extra in terms of requirements. Interim City Planner Williams said that they do not.

Board member Rich asked whether or not the Board could approve the plan before DEP approves it. Hale stated that this was correct, they cannot break ground on the project until they obtain approval from the DEP. There was further debate as to whether or not to include conditional language on the mylars submitted by Versant.

**DeLeo opened up the public hearing at 5:42. No one in attendance wished to speak. DeLeo asked Burckard if there was anyone on Zoom, there was not.**

**DeLeo closed public hearing at 5:42.**

**Final Plan for a Major Use Site Development for Applicant/Owner Versant Power entitled Boggy Brook Substation Expansion**

**Introduction**

**Public Hearing Opened**

**Public Hearing Closed**

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Lyles made a motion to find the Final Plan for Major Use Site Development entitled Boggy Brook Substation Expansion for Owner/Applicant Versant Power is APPROVED with the condition that that project receive DEP approval before the issuance of permits. Geel seconded the motion.

The Board voted to approve the final plan with the contingency. The vote was unanimous (5-0).

5.) Proposed amendments to Chapter 56 Unified Development Ordinance, Article 3 Zoning Districts, Article 6 Site Development Review, Article 8 Performance Standards, and Article 14 Definitions. The proposed amendments will refine existing permitted use categories, major use site plan development review applicability thresholds, performance standards, and/or definitions, primarily as they relate to stand-alone solar energy systems affected by the current moratorium.

Assistant City Planner Williams stated that all of the changes/updates from the last meeting have been incorporated and new copies were sent to the Board prior to this meeting.

Williams said that there were some more discussions which needed to happen. Said that Article 3 does not need to be discussed – only change was the table of uses to reflect that all solar energy systems are treated as the same regardless of size.

Article 6 does not refer to solar energy so Williams skipped this and will return to it later in the meeting.

Article 8 is where Williams claims most of the solar changes needed to be made. Williams wanted to address a public comment from last meeting regarding stormwater runoff and the potential for higher requirements for projects that have the potential for large amounts of stormwater damage. The Board discussed the comment from last month and agreed that these issues would come up on a case-by-case basis. DeLeo said that he did not believe that there should be language in the ordinance regarding these potential issues since they are hypothetical.

Williams then stated that a reference was needed for best practices for decommissioning. A reference originally pointed readers to the National Energy Research Lab (“NERL”). However, the National Energy Research Lab was contracted through the Department of Energy. Williams said that he went to the Department of Energy website and was directed to the NERL where the best practices are located. Board member Geel inquired as to why they were going to a third party site, Williams replied that the Department of Energy contracts with this third party to come up with the guidelines.

Williams then stated that he removed the reference to the salvage value when discussing the decommissioning costs from Article 8.

Final Plan for Major Use Site Development entitled Boggy Brook Substation Expansion for Owner/Applicant Versant Power was APPROVED

Proposed Amendments to Chapter 56 Unified Development Ordinance.

Introduction

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Williams then went on to talk about section 823.4 of Article 8 which discusses vegetation. Williams stated that he has an issue with the last part of the section regarding additional penalties because there were no additional penalties planned. Code Enforcement Officer Roberts stated that the only penalties in the ordinance are a fine of \$100 per day to \$2500 per day as long as the issue exists. Board member Friedland went on to explain why she believed that these extra penalties are necessary for this section. Board Member Geel stated that he believed these requirements were fair and they would not negatively impact developers. He stated that he believed this language should be included in the section to ensure that extra oversight is obtained in situations where it would be necessary. Member Lyles said that he agreed the language should be put in and a waiver option available for those who could not comply with the extra requirements.

**Chair DeLeo opened the public hearing at 5:57pm.**

**Public Hearing  
Opened**

DeLeo asked Chris Byers if he has seen a copy of these changes. DeLeo asked from a DEP perspective if there were any additional requirements or things that the DEP would want included. Mr. Byers said no and that he believes developers will not be negatively impacted. Mr. Byers said he sees no issue with the language from a DEP perspective.

Steven Blake was present via Zoom.

Hangge asked Mr. Byers what he has seen regarding water runoff for solar panels or anything like they were discussing earlier regarding the erosion control standards. He said that he has not.

Mr. Blake said that all projects pretty much require stormwater approval and erosion control standards are dealt with on a case-by-case basis given the specific circumstances. In regards to the drip edge of the solar panels, he has never seen that come up as an issue. Said that the DEP did come up with extra requirements if they were needed, but they never came to fruition and therefore the DEP no longer has those extra requirements.

DeLeo asked Mr. Byers about a recent news story regarding potential DEP requirements for these sorts of issues and Mr. Byers discussed his opinions of the language DEP is proposing to use. The Board discussed with Mr. Byers the potential for a wildlife passage way to allow animals to cross solar farms without damaging anything or themselves. Mr. Byers stated that more clarity is needed from the DEP regarding this.

Member Geel asked whether any of the electrical equipment on the solar panels would be exposed to the outside where animals could potentially be harmed. Mr. Byers said there was a portion of the equipment that is exposed and can potentially pose a threat to animals or people if they mishandle the equipment.

Mr. Byers asked about fencing requirements – specifically how he can comply with the requirements. Asked for clarification on some of the language.

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Mr. Byers had a comment on the decommissioning in section 825.2. He asked how he would put a date on the decommissioning plan when they are unsure of the life of some equipment/some equipment needs to be replaced. Suggested putting the end date as the end of the lease instead of the end of the life of the equipment. He stated that he believed these requirements are too specific and could create issues down the line. Gave some suggestions for changes to the section's language. Board discussed the changes to the language with Assistant City Planner Williams.

Mr. Byers asked about financial assurance provisions in the section and asked for clarification on the language. DeLeo stated that he would like a provision added that all decommissioning plans be looked at by the City's attorney in regards to the financial assurance aspect.

Williams returned to Article 6 and discussed changing the requirements for Planning Board approval from 3000 square feet to 5000 square feet. DeLeo discussed the potential for all projects between 3000 and 5000 square feet should be reviewed by only the Chair and Vice-Chair of the Planning Board. Code Enforcement Officer Roberts explained her reasoning for suggesting this change. Williams stated that they still need Council approval to lower the threshold to 3000 square feet.

**DeLeo closed public hearing at 6:37pm.**

Board recommended holding onto the changes until January when they can bring the changes to City Council.

#### **6.) Staff comments**

Comp plan update – RFP going through draft and revision process. Hopefully it will be brought to Council in December.

Steering committee – Williams suggested that the Board pick their two members to be on the steering committee. Board appointed Vice Chair Lyles and Chair DeLeo.

#### **7.) Adjournment**

Vice-Chair Lyles made a motion to adjourn the meeting. Mr. Geel seconded the motion and with no further discussion, the motion passed unanimously **(5-0)**. The meeting was adjourned at 6:44 PM.

Minutes prepared by: Elizabeth Littlefield, Administrative Assistant to the City Manager

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<b>Date</b>	<b>Nelson Geel, Secretary Ellsworth Planning Board</b>
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**Public Hearing  
Closed**

**Vote to adjourn at  
6:44 PM**

*Agendas and minutes  
posted on the City of  
Ellsworth's website:  
[ellsworthmaine.gov](http://ellsworthmaine.gov)*

A video transcript of  
this meeting is also  
available on  
YouTube.